

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS,  
EASTERN DIVISION

In re:	)	
	)	Chapter 11
NATIONAL STEEL CORPORATION,	)	
et al.,	)	Case No.02-08699
	)	(Jointly Administered)
	)	
Debtors.	)	Judge John H. Squires
	)	

**PROOF OF CLAIM OF THE UNITED STATES ON BEHALF OF  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
AGAINST NATIONAL STEEL CORPORATION**

1. The United States files this Proof of Claim at the request of the U.S. Environmental Protection Agency ("EPA"). The Attorney General is authorized to make this Proof of Claim on behalf of the United States. This Proof of Claim asserts claims against the National Steel Corporation (referred to herein as "Debtor") for:

(a) the recovery of environmental response costs incurred or obligated or that will be incurred or obligated by EPA under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 *et seq.* in connection with the Rasmussen Dump Superfund Site in Livingstone County, Michigan.

(b) the recovery of civil penalties for pre-petition violations of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901-6992K, and regulations promulgated thereunder, at the Debtor's Granite City facility in Granite City, Illinois, the Midwest facility in Portage, Indiana, and the Great Lakes facility in Ecorse and River Rouge, Michigan;

(c) the recovery of civil penalties for pre-petition violations of the Clean Air Act, 42 U.S.C. §§ 7401-7671q, and regulations promulgated thereunder, at the Debtor's Granite City facility in Granite City, Illinois and the Great Lakes facility in Ecorse and River Rouge, Michigan;

(d) the recovery of civil penalties for pre-petition violations of the Clean

Water Act, 33 U.S.C. §§ 1251-1387, and regulations promulgated thereunder, at the Debtor's Granite City facility in Granite City, Illinois and the Great Lakes facility in Ecorse and River Rouge, Michigan;

(e) the recovery of civil penalties for pre-petition violations of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675, and the regulations promulgated thereunder, at the Debtor's Granite City facility in Granite City, Illinois and the Great Lakes facility in Ecorse and River Rouge, Michigan;

(f) the recovery of civil penalties for pre-petition violation of the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 11001-11050, and the regulations promulgated thereunder, at the Debtor's Granite City facility in Granite City, Illinois and the Great Lakes facility in Ecorse and River Rouge, Michigan;

(g) the recovery of civil penalties for pre-petition violations of the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692, and regulations promulgated thereunder, at the Debtor's Midwest facility in Portage, Indiana and the Great Lakes facility in Ecorse and River Rouge, Michigan.

#### **CERCLA OVERSIGHT COSTS CLAIM**

2. This section of the Proof of Claim relates to the recovery of environmental oversight costs incurred or obligated or that will be incurred or obligated by EPA under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675 for which National Steel is liable with respect to the Rasmussen Dump Superfund Site ("Rasmussen Site").

3. National Steel is liable to reimburse the United States for the oversight costs (plus interest) of actions taken or to be taken by the United States in response to releases and threatened releases of hazardous substances at the Rasmussen Site. National Steel is liable to the United States pursuant to 42 U.S.C. § 9607(a), because it arranged for the treatment or disposal of hazardous substances at the Rasmussen Site. There have been releases or threats of releases of hazardous substances at the Rasmussen Site and this Site is on the National Priorities List, 48 Fed. Reg. 175 (Sept. 8, 1983), established pursuant to 42 U.S.C. § 9605.

4. EPA has incurred and will incur oversight costs at the Rasmussen Site not inconsistent with the National Contingency Plan promulgated pursuant to 42 U.S.C. § 9605, and set forth at 40 C.F.R. ¶ 300, as amended. In addition to National Steel, other potentially responsible parties may be jointly and severally liable to the United States under CERCLA with respect to the Rasmussen Site.

5. On or about April 30, 1992, the District Court for the Eastern District of Michigan entered a Consent Decree and Order among National Steel, U.S. EPA, and nine other parties under which the National Steel and its co-defendants agreed to pay U.S. EPA \$1,019, 975.30 for its past oversight costs and agreed to pay associated future oversight costs and to undertake cleanup at the Rasmussen Site. National Steel is obligated to perform work under this Consent Decree and Order, and it is the United States' position that this is not a claim for which a proof of claim must be filed. See *infra* paragraphs 64-66.

6. The United States has incurred unreimbursed oversight costs to date of approximately at least \$89,507.50 from January 1, 2000 through September 30, 2002 with respect to the Rasmussen Site. National Steel is therefore liable to the United States for at least \$89,507.50 plus interest.

7. Additional oversight costs will likely be incurred for which National Steel is liable. The United States presently estimates that the additional oversight costs will be approximately \$40,000 at the Rasmussen Site. National Steel is therefore liable to the United States for at least these future costs as well.

8. The United States hereby asserts a claim against National Steel for oversight costs at the Rasmussen Site identified in paragraphs 6 and 7 above.

#### **CLEAN AIR ACT AIR ACT PENALTY CLAIMS**

9. Debtor is liable to the United States for civil penalties for pre-petition violations of the Clean Air Act, 42 U.S.C. §§ 7401-7671q, and regulations promulgated thereunder, at its Granite City facility in Granite City, Illinois and at its Great Lakes facility in Ecorse and River Rouge, Michigan.

10. Between May 11, 1998 and September 30, 2002, Debtor caused or allowed

fugitive visible emissions from the Basic Oxygen Furnace at the Granite City facility to exceed the twenty percent opacity limit on approximately twenty-nine occasions, in violation of limits imposed by Ill. Adm. Code tit. 35 § 212.446(c). This limit was imposed as part of a federally approved state implementation plan and, therefore, pursuant to 42 U.S.C. § 7413(a) and (b), the United States may enforce this opacity limit. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413(b) and 40 C.F.R. §19.4.

11. At the Granite City facility, Debtor operates three refrigerant recovery systems that service motor vehicle air conditioning (“MVAC”) equipment in the Steelmaking area. Ownership, operation, and service of these units are subject to reporting and record-keeping requirements found at 40 C.F.R. § 82.42. On at least one occasion, during 2000, Debtor failed to properly certify ownership of this equipment to EPA as required by 40 C.F.R. § 82.42(a). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

12. On at least one occasion during 2000, at the Granite City facility, Debtor did not have appropriate records indicating the facility to which recovered MVAC refrigerant was sent as required by 40 C.F.R. § 82.42(b)(1). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

13. On at least one occasion during 2000, at the Granite City facility, Debtor failed to ensure that the staff operating its MVAC refrigerant recycling units were properly certified to perform this work as required by 40 C.F.R. § 82.42(b)(2). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

14. On at least one occasion during 2000, Debtor failed to ensure that air conditioning units were emptied of refrigerants prior to disposal in its Granite City facility on-site landfill in violation of 40 C.F.R. § 82.156(f) and 40 C.F.R. § 82.166(i) and (m). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

15. On at least one occasion during 2000, Debtor failed to certify comfort air conditioning refrigerant recycling and recovery equipment used in the Granite City facility to the EPA, in violation as required by 40 C.F.R. § 82.162. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

16. On at least one occasion during 2000, Debtor failed to maintain sufficient records of its use and discharge of freon, including CFC-12; HCFC-22; and CFC-123, at its Granite City facility in violation of 40 C.F.R. § 82.166(k). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

17. On at least one occasion during 2000, Debtor failed to ensure that its refrigeration technicians at the Granite City facility were certified, as required by 40 C.F.R. § 82.166(l). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

18. On at least one occasion during 2001, the Debtor allowed or caused emissions from the electrostatic precipitator stack for the No. 2 Basic Oxygen Furnace at the Great Lakes facility in Ecorse and River Rouge, Michigan to exceed the opacity limit for more than 6-minutes during an hour in violation of the facility's operating permit and the provisions of Michigan's state implementation plan. See Mich. Admin. Code R 336.1301; 40 C.F.R. 52.1170 (approving Michigan's state implementation plan). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

19. On at least one occasion during 2001, Debtor caused or allowed a leak of fugitive emissions from the seal pot at the coke oven by-product plant at the Great Lakes facility in Ecorse and River Rouge, Michigan in violation of the facility's operating permit and Mich. Admin. Code R. 336.1301. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day of each violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 7413 and 40 C.F.R. §19.4.

20. The United States hereby asserts a claim against the Debtor for civil penalties for

the pre-petition violations of the Clean Air Act described in paragraphs 10-19 above, for an amount to be determined by a court or administrative agency with jurisdiction.

#### **RESOURCE CONSERVATION AND RECOVERY ACT PENALTY CLAIMS**

21. Debtor is liable to the United States for civil penalties for pre-petition violations of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901-6992k, and regulations promulgated thereunder, at the Granite City facility in Granite City, Illinois, the Midwest facility in Portage, Indiana, and the Great Lakes facility in Ecorse and River Rouge, Michigan. RCRA provides for civil penalties of up to \$27,500 per day of violation occurring on or after January 31, 1997 pursuant to 42 U.S.C. § 3008(g) and 40 C.F.R. § 19.4.

22. Debtor is, and was at the time of the violations, the "owner" and "operator" of the Granite City, Midwest, and Great Lakes facilities within the meaning of RCRA and the governing regulations. At all times relevant to the allegations, "hazardous waste" was "generated" and "stored" at the Granite City, Midwest, and Great Lakes facilities within the meaning of RCRA and the governing regulations. Each of these facilities is, and was at the time of the violations alleged, a hazardous waste treatment, storage, management and/or disposal "facility," within the meaning of RCRA and the governing regulations.

23. On at least four occasions during 2000, at the Granite City facility, Debtor failed to make adequate RCRA hazardous waste determinations for at least three continuously-produced and a single one-time waste streams, including (a) roll grinding sludges; (b) bead blasting residues; (c) chromium chemical conversion of aluminum wastewater treatment sludges; and (d) in-line residues from the coke oven gas distribution pipeline. Accordingly, Debtor violated Ill. Admin. Code tit. 35 § 722.11 and 40 C.F.R. § 262.11 and is liable for civil penalties of up to \$27,500 per day for each violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

24. On at least three occasions during 2000, at the Granite City facility, Debtor improperly disposed of hazardous wastes, including: (a) bead blasting residues, which have been disposed of in the on-site nonhazardous landfill; (b) wastewater treatment sludges from chromium chemical conversion of aluminum, which, prior to September 1999 were disposed of in the on-site nonhazardous landfill, and after September 1999 have been disposed of in an

unlined ditch and surface impoundments on the facility grounds; and (c) coke oven gas line residues, have been disposed of in the on-site nonhazardous waste landfill. Accordingly, Debtor violated Ill. Admin. Code tit. 35 § 703.121 and § 725.101 and 40 C.F.R. § 270.1(c) and § 265.1(a) and is liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

25. From at least January 1998 through August 2000, Debtor shipped approximately 11.1 million gallons of spent pickle liquor, which is a listed hazardous waste, from its Granite City facility, off-site for reclamation without an accompanying hazardous waste manifest or land disposal restrictions notification, in violation of Ill. Admin. Code tit. 35 § 722.120(a) and §§ 728.107(a)(2) and (a)(3) and 40 C.F.R. § 262.20(a) and §§ 268.7(a)(2) and (a)(3). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day for each violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

26. Based upon the observations of EPA inspectors, the United States believes that further fact-finding will demonstrate that Debtor has been improperly managing used oil in surface impoundments at its Great Lakes and Granite City facilities. The United States believes that further fact-finding will establish that wastewater contaminated with greater than *de minimus* quantities of used oil was being managed in surface impoundments in noncompliance with Ill. Admin. Code tit. 35 § 739.11(a), Mich. Admin. Code R 299.9809, 299.9810 and 40 C.F.R. §§ 279.12(a), 279.22. If the United States demonstrates that Debtor was or is not complying with the regulations cited above, then Debtor is liable for civil penalties of up to \$27,500 per day for each violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

27. On at least one occasion during 2000, Debtor failed to adequately train or instruct its Granite City facility employees responsible for handling hazardous wastes to ensure the facility's compliance with RCRA. Accordingly, Debtor violated Ill. Admin. Code tit. 35 § 725.116(a) and (b), as referenced by § 722.134(a)(4) and 40 C.F.R. § 265.16(a) and (b), as referenced by § 262.34(a)(4) and is liable for civil penalties of up to \$27,500 per day for each violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

28. On at least one occasion during 2000, Debtor failed to have written job descriptions that identified requisite skill, education, or other qualifications and full duties of

each facility personnel assigned to positions related to hazardous waste management at the Granite City facility, as required by Ill. Admin. Code tit. 35 § 725.116(d)(2), as referenced by § 722.134(a)(4) and 40 C.F.R. § 265.16(d)(2), as referenced by § 262.34(a)(4). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day for each violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

29. On at least one occasion during 2001, Debtor improperly stored certain hazardous wastes at the Great Lakes facility by accumulating hazardous wastes generated at the laboratory building in small five or ten gallon containers and then consolidating those wastes in a fifty-five gallon drum sitting outside of the laboratory building exposed to the elements and other destructive forces. This constitutes a violation of 40 C.F.R. §§ 262.34, 26.175 and Mich. Rule R. 299.9306(1)(3), 299.9306 and therefore Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

30. On at least one occasion during 2001, Debtor accumulated spent pickle liquor (K062) at the Great Lakes facility either without an active contract for its sale or without maintaining a copy of that contract for inspection by EPA and therefore violated 40 C.F.R. § 261.2 and Mich. Admin. Code. R. 299.4105, 299.9202(5). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

31. On at least one occasion during 2001, Debtor failed to properly train its Great Lakes facility employees responsible for handling hazardous wastes in violation of Mich. Rule R. 299.9306(d) and 40 C.F.R. § 365.16(c). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

32. In at least 1999, 2000, and 2001, Debtor violated Mich. Rule R. 299.9614 and 40 C.F.R. § 265.17 by failing to ensure that the Zug Island drum storage area of the Great Lakes facility was inspected weekly. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

33. For at least the months of November 1999 through April 2000 and November 2000 through March 2001, at the Great Lakes facility, Debtor failed to monitor the underground storage tank known as Tank MA-3A for releases as required by 40 C.F.R. 280.41(a) and Mich.



Admin. Code R 29.125. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6928(g) and 40 C.F.R. § 19.4.

34. During at least the month of November 2000, at the Great Lakes facility, Debtor failed to maintain an appropriate gauge for the underground storage tank known as Tank AN-6A in violation of 40 C.F.R. 280.41(a) and Mich. Admin. Code R 29.2122. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6992d(d) and 40 C.F.R. § 19.4.

35. During at least March 2001, at the Great Lakes facility, Debtor failed to properly operate its tank leak detection systems for at least the tanks known as MP-4A, MA-3A, and MP-11A. Accordingly, Debtor violated the requirements of 40 C.F.R. and Mich. Admin. Code R 29.2121 on at least three occasions, and Debtor is therefore liable for civil penalties of up to \$27,500 per day per violation pursuant to 42 U.S.C. § 6992d(d) and 40 C.F.R. § 19.4.

36. Between approximately November 1, 2001 and February 15, 2002, Debtor's Midwest facility failed to comply with its hazardous waste management permit by improperly disposing of F006 hazardous wastes containing leachable nickel in excess of 11 mg/l, in violation of the land disposal restrictions found at 40 C.F.R. Part 268 and Ind. Admin. Code tit. 329 § 3.1-12-1. Therefore, Debtor is liable for civil penalties pursuant to 42 U.S.C. § 3008(g) and 40 C.F.R. § 19.4.

37. The United States hereby asserts a claim against Debtor for civil penalties for the pre-petition violations of RCRA described in paragraphs 23-36 above, for an amount to be determined by a court or administrative agency with jurisdiction.

#### **CLEAN WATER ACT PENALTY CLAIMS**

38. Debtor is liable to the United States for civil penalties for pre-petition violations of the Clean Water Act, 33 U.S.C. §§ 1251-1387, and regulations promulgated thereunder, at the Granite City facility in Granite City, Illinois and the Great Lakes facility in Ecorse and River Rouge, Michigan.

39. On at least one occasion during 2000, Debtor failed to include at least nine tanks at the Granite City facility with potential to discharge oil to waters of the United States in the its

spill prevention, containment, and counter-measures ("SPCC") plan, in violation of 40 C.F.R. § 112.7. Accordingly, Debtor is liable for civil penalties up to \$27,500 per violation per day pursuant to 33 U.S.C. § 1319 and 40 C.F.R. § 19.4.

40. During an 2000 inspection of Debtor's Granite City facility, EPA inspectors determined that Debtor's May 31, 1996 NPDES permit application for the Granite City facility failed to include at least three wastewater sources contributing wastewater to the effluent discharge, and did not include a narrative identification of each process, operation, or production that contributes wastewater to the effluent for each outfall, in violation of 40 C.F.R. § 122.21(g)(2) and 40 C.F.R. § 122.21(g)(3). Accordingly, Debtor's NPDES permit, No. IL0000329, does not authorize Debtor to discharge hexavalent chromium or fecal coliform. Debtor has discharged hexavalent chromium and fecal coliform to navigable waters of the United States, without an applicable permit, or Debtor failed to provide accurate information in its permit application, in violation of the Clean Water Act and is, therefore, liable for civil penalties of up to \$27,500 per violation per day pursuant to 33 U.S.C. § 1319 and 40 C.F.R. § 19.4.

41. Since at least September 2000, Debtor has failed to properly collect and analyze compliance samples from the Granite City facility on at least two occasions in violation of 40 C.F.R. § 363, Table II as referenced by NPDES Permit IL0000329. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per violation per day pursuant to 33 U.S.C. § 1319 and 40 C.F.R. § 19.4.

42. From at least May 1998 through approximately August 2000, Debtor's wastewater discharges from the Granite City facility exceeded NPDES permit effluent limitations at outfall 001 on at least thirteen occasions and outfall 001A on at least one occasion, in violation of its NPDES Permit IL0000329. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per violation per day pursuant to 33 U.S.C. § 1319 and 40 C.F.R. § 19.4.

43. Since at least January 1999, Debtor's discharges from its Great Lakes facility have been subject to at least three NPDES permits: No. MI0026786, MI0002313, and MI0026778. Since at least January 1999, Debtor's wastewater discharges from the Great Lakes facility have violated the numerical or narrative limits contained in those permits on at least thirteen occasions. With respect to each of these permit violations, Debtor is liable for penalties of up to

\$27,500 per day pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.

44. Since at least March 2001, Debtor has failed to properly collect and analyze compliance samples at the Great Lakes facility as required by 40 C.F.R. § 363, Table II as referenced by NPDES permits No. MI0026786, MI0002313, and MI0026778 on at least two occasions. Accordingly, Debtor is liable for these violations of the Clean Water Act for penalties of up to \$27,500 per day pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.

45. On at least one occasion during 2001, at the Great Lakes facility's Main Plant, Debtor has violated 40 C.F.R. § 112.7 by failing to provide adequate secondary containment at the Combined Municipal Waste Water Treatment Plant where four tanks are used to store used oil and at the Transportation Department, where a tank is used to store waste oil. Accordingly, Debtor is liable for these violations for civil penalties of up to \$27,500 per day per violation pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.

46. On at least one occasion during 2001, at the Great Lakes facility's Main Plant, Debtor has also failed to provide gauges for oil storage tanks in violation of 40 C.F.R. §§ 112.7, 112.8. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.

47. On at least one occasion during 2001, at the Great Lakes facility's Main Plant, Debtor has further failed to have an accurate and complete SPCC Plan because its Plan fails to properly describe the underground storage tanks, fails to identify certain oil-filled transformers with no secondary containment, and fails to discuss the procedures for inspecting the areas of potential spills. Each of these failures constitutes a violation of the 40 C.F.R. § 112.7. Accordingly, Debtor is liable for civil penalties of up to \$27,500 a day per violation pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.

48. On at least one occasion during 2001, at the Great Lakes facility's 80-inch Hot Mill, the SPCC Plan failed to set forth the plan for testing the gauges on the oil storage tanks, in violation of 40 C.F.R. § 112.8, for which Debtor is liable for civil penalties of up to \$27,500 a day per violation pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.

49. On at least one occasion during 2001, at the Great Lake Division's 80-in Hot Mill, there are several areas at the Mill with inadequate secondary containment, including several tanks

and certain oil-containing transformers. The absence of adequate secondary containment is a violation of 40 C.F.R. §§ 112.7, 112.8. Accordingly, Debtor is liable for civil penalties of up to \$27,500 a day per violation pursuant to 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4.

50. The United States hereby asserts a claim against Debtor for civil penalties for the pre-petition violations of the Clean Water Act described in paragraphs 39-49 above, for an amount to be determined by a court or administrative agency with jurisdiction.

51. At the Zug Island portion of the Great Lakes Division plant, on at least one occasion, National Steel failed to have a proper and complete spill prevention, containment and counter-measures plan and failed to have adequate secondary containment for certain coal tar storage tanks. On October 30, 2002, EPA and National Steel entered into a Consent Agreement and Final Order In the matter National Steel Corporation, Great Lakes Division, River Rouge, Michigan, U.S. EPA Docket No. CWA-05-2001-10. Under that Order, U.S. EPA shall have an allowed general unsecured claim of \$85,000. National Steel is therefore liable to EPA for this \$85,000 allowed claim.

#### **CERCLA AND EPCRA CIVIL PENALTY CLAIMS**

52. Debtor is liable to the United States for civil penalties for pre-petition violations of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675, and the regulations promulgated thereunder, and the Emergency Planning and Community-Right-to-Know Act ("EPCRA"), 42 U.S.C. §§ 11001-11050, at the Granite City facility in Granite City, Illinois and the Great Lakes facility in Ecorse and River Rouge, Michigan.

53. Since at least January 1998, Debtor has failed to immediately notify the National Response Center of at least seven reportable releases from the Granite City facility and also failed to provide written follow-up notice of these releases as soon as practicable, in violation of 42 U.S.C. §§ 9603, 11004(b) and 40 C.F.R. § 302.6(a). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation.

54. Since at least January 1998, Debtor has failed to immediately notify the National Response Center of at eight reportable releases from the Great Lakes facility in violation of 42

U.S.C. §§ 9603, 11004(b) and 40 C.F.R. § 302.6(a). Accordingly, Debtor is liable for liable for civil penalties of up to \$27,500 per day per violation.

55. The United States hereby asserts a claim against Debtor for civil penalties for the pre-petition violations of CERCLA described in paragraphs 53-54 above, for an amount to be determined by a court or administrative agency with jurisdiction.

#### **TOXIC SUBSTANCES CONTROL ACT PENALTY CLAIMS**

56. Debtor is liable to the United States for civil penalties for pre-petition violations of the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692, and regulations promulgated thereunder, at the Midwest facility in Portage, Indiana and the Great Lakes facility in Ecorse and River Rouge, Michigan.

57. Since at least 2001, Debtor has improperly disposed of liquids containing PCBs in the electrical basement in the Midwest facility. This improper disposal is a violation of 40 C.F.R. § 761.60. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 19.4.

58. Since at least 2001, Debtor has violated the regulations regarding the labeling and dating of PCB-containing wastes at both the Midwest and Great Lakes Division facilities on at least three occasions. The failures to properly label and date PCB containing wastes are violations of 40 C.F.R. § 761.40. Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 19.4.

59. During at least the first quarter of 1998 and the fourth quarter of 2000, Debtor either failed to perform visual inspections of PCB transformers at the Great Lakes facility every three months as required by 40 C.F.R. § 761.30(a)(1)(ix), or Debtor failed to maintain records of those inspections as required by 40 C.F.R. § 761.(a)(1)(xii). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 19.4.

60. In addition, for at least the fourth quarter of 1999, Debtor failed to timely perform its visual inspection of PCB transformers at the Great Lakes facility in violation of 40 C.F.R. § 761.30(a)(1)(x). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 19.4.

61. Since at least 2001, on at least one occasion, Debtor failed to properly store PCB containing material at the Main Plant of the Great Lakes facility in violation of 40 C.F.R. § 761.30(a)(1)(viii). Accordingly, Debtor is liable for civil penalties of up to \$27,500 per day per violation pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 19.4.

62. Since at least 2001, on at least one occasion, Debtor has improperly disposed of PCBs at the Great Lakes facility by failing to timely and fully clean up leaks of PCB containing materials from transformers. Therefore, Debtor has violated 40 C.F.R. § 761.60 and is liable for civil penalties of up to \$27,500 per day pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 19.4.

63. The United States hereby asserts a claim against Debtor for civil penalties for the pre-petition violations of the Toxic Substances Control Act described in paragraphs 57-62 above, for an amount to be determined by a court or administrative agency with jurisdiction.

#### **INJUNCTIVE OBLIGATIONS UNDER ENVIRONMENTAL STATUTES**

64. National Steel has injunctive obligations to comply with environmental requirements, including but not limited to obligations to perform environmental assessment and remediation work under: (1) a Consent Decree and Court Order under CERCLA relating to the Buckeye Reclamation Landfill Superfund Site in Wooster, Ohio, United States v. Consolidation Coal Company, et al., Consolidated Civil Case Nos. C2-94-248 and C2-94-785 (S.D. Ohio 1997); (2) a Consent Decree and Court Order under CERCLA relating to the Rasmussen Dump Superfund Site in Livingston County, Michigan, United States v. BASF Corporation, et al., Civil Case No. 92-40071 (E.D. Mich. 1992); (3) a Consent Decree and Court Order under CERCLA relating the Springfield Township Landfill Superfund Site in Davisburg, Michigan, United States v. Akzo Coating, Inc., et al., Civil Case No. 98-72934 (E.D. Mich. 1998); (4) an administrative Consent Agreement and Final Order under EPCRA § 313 relating to National Steel's Granite City facility in Granite City, Illinois and the Great Lakes facility in Ecorse, Michigan, In the Matter of National Steel Corporation Granite City and Great Lakes Divisions - Granite City, IL/Ecorse, MI, U.S. EPA Docket No. EPCRA # 05-2002-0003 (November 2, 2001); (5) an administrative Consent Agreement and Final Order under the Clean Water Act relating to National Steel's Great Lakes Division facility in River Rouge, Michigan, In the Matter of: National Steel Corporation Great Lakes Division, River Rouge, Michigan, U.S. EPA Docket No.

CWA # 05-2001-10 (October 30, 2002). Debtor has other injunctive obligations under environmental laws, including but not limited to obligations under the Clean Air Act, RCRA, Clean Water Act, EPCRA, CERCLA, and the Toxic Substances Control Act at the Granite City, Midwest, and Great Lakes facilities.

65. It is the United States' position that it is not required to file a proof of claim with respect to Debtor's injunctive obligations to comply with work requirements under Consent Decrees and Court Orders and Consent Agreement and Final Orders, and to comply with other environmental requirements imposed by law. Debtor and any reorganized debtor(s) must comply with the mandatory injunctive requirements of those Consent Decrees and Court Orders and Consent Agreement and Final Orders and must comply with other environmental requirements imposed by law.

66. Court-ordered and regulatory obligations are mandatory injunctive obligations with which Debtor must comply, and for which proofs of claim need not be filed under the Bankruptcy Code. Nevertheless, this claim is filed in a protective fashion only to protect the United States' rights with respect to such obligations of National Steel. The United States reserves the right to take future actions to enforce any such obligations of National Steel. Nothing in this Proof of Claim constitutes a waiver of any rights of the United States or an election of remedies.

#### **ADDITIONAL TERMS**

67. This claim reflects the known liability of the Debtor to the United States on behalf of EPA. The United States reserves the right to amend this claim to assert subsequently discovered liabilities. This proof of claim is without prejudice to any right under 11 U.S.C. § 553 to set off, against this claim, debts owed (if any) to the debtor by this or any other federal agency.

68. The United States has not perfected any security interest on its claim against the debtor.

69. This claim is filed as a general unsecured claim except to the extent of any secured/trust interest in insurance proceeds received by the Debtor on account of environmental claims of the United States, and to the extent the United States is entitled to administrative

expense priority for post-petition penalties. The United States will file any application for administrative expense priority at the appropriate time. See also paragraphs 64-66 *supra*.

70. Except as expressly stated in this Proof of Claim, no judgments against National Steel have been rendered on this Proof of Claim.

71. Except as expressly stated in this Proof of Claim, National Steel has not made any payments to the United States on these claims.

72. This Proof of Claim is also filed to the extent necessary to protect the United States' rights relating to any insurance proceeds received by National Steel relating to any of the sites discussed herein.

Respectfully submitted,

---

W. BENJAMIN FISHEROW  
Deputy Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice

---

SARAH HIMMELHOCH  
Senior Counsel  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611, Ben Franklin Station  
Washington, D.C. 20044  
(202) 514-0180

PATRICK J. FITZGERALD  
United States Attorney  
Northern District of Illinois

JOEL NATHAN  
Assistant United States Attorney  
219 South Dearborn Street  
Chicago, IL 60604  
(312) 353-5300